

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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In Re: Methyl Tertiary Butyl Ether (MTBE)
Products Liability Litigation

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88
ECF Case

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This document relates to the following case:

City of New York v. Amerada Hess Corp., et al.
Case No. 04 Civ. 3417

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PLAINTIFF CITY OF NEW YORK'S PROPOSED JURY VERDICT FORMS

We the jury in the above-captioned action answer the questions submitted to us as follows:

STRICT LIABILITY DESIGN DEFECT

1. Was the gasoline manufactured by defendant ExxonMobil that contained MTBE defectively designed so that it was not reasonably safe?

Yes _____ No _____

2. Was this design defect a substantial factor in causing the City's injury?

Yes _____ No _____

STRICT LIABILITY FAILURE TO WARN

3. Did defendant ExxonMobil fail to give a warning that gasoline containing MTBE was not reasonably safe to store in underground storage tanks?

Yes _____ No _____

4. Was this failure to warn a substantial factor in causing the City's injury?

Yes _____ No _____

TRESPASS

5. Did any of the MTBE manufactured, promoted, distributed, or sold by ExxonMobil enter the City's property and contaminate its groundwater?

Yes _____ No _____

6. Did ExxonMobil's actions or failure to act cause or assist in causing the MTBE to enter the City's property?

Yes _____ No _____

VIOLATION OF TSCA

7. Did ExxonMobil ever fail to submit reports, notices, or other information to the United States Environmental Protection Agency (EPA) regarding the adverse environmental or health-related impacts of MTBE?

Yes _____ No _____

8. If your answer to question 7 is yes, at the time ExxonMobil failed to submit reports, notices, or other information to the United States Environmental Protection Agency (EPA) regarding the adverse environmental or health-related impacts of MTBE, did ExxonMobil have actual knowledge that the EPA already knew of the adverse environmental and health related impacts?

Yes _____ No _____

PRIVATE NUISANCE

9. Did ExxonMobil's conduct in connection with gasoline containing MTBE interfere with the City's use of its water?

Yes _____ No _____

10. Was ExxonMobil's interference substantial?

Yes _____ No _____

11. Was ExxonMobil's interference unreasonable?

Yes _____ No _____

12. Did ExxonMobil know its interference was substantially certain to result from its conduct?

Yes _____ No _____

NEGLIGENCE

13. Did ExxonMobil fail to use reasonable care in manufacturing, promoting, distributing or selling gasoline containing MTBE or by failing to ensure that station owners and others properly stored or dispensed MTBE?

Yes _____ No _____

14. Was ExxonMobil failure to use reasonable care a substantial factor in the City's injury?

Yes _____ No _____

15. Did Exxon fail to use reasonable care in manufacturing, promoting, distributing or selling gasoline containing MTBE in that it failed to warn gas station owners, distributors and others about how to properly store and dispense gasoline containing MTBE?

Yes _____ No _____

16. Was ExxonMobil failure to use reasonable care a substantial factor in MTBE's entering the City's groundwater?

Yes _____ No _____

17. Has ExxonMobil committed gross negligence or willful misconduct?

Yes _____ No _____

VIOLATION OF NY NAVIGATION LAW

18. Do you find that the City's property was damaged by an oil spill caused by the defendant, ExxonMobil, in violation of New York Navigation Law § 181?

Yes _____ No _____

PUBLIC NUISANCE

19. Did ExxonMobil's conduct in manufacturing, promoting, distributing or selling gasoline containing MTBE offend, interfere with or cause damage to the public in the exercise of rights common to all in a manner such as to offend public morals or endanger the property, health safety or comfort of a considerable number of persons?

Yes _____ No _____

20. Did ExxonMobil's conduct violate a statute or law?

Yes _____ No _____

DAMAGES

21. What sum of money will fairly and reasonably compensate the City for any and all damages it suffered and that were caused by ExxonMobil?

Damages: _____

PUNITIVE DAMAGES

22. Do you find that ExxonMobil's actions were wanton and reckless or malicious such that the City is entitled to an award of punitive damages?

Yes _____ No _____

23. If yes how much?

Amount: _____?

Dated _____

Jury Foreperson